



Reprinted
February 20, 2002

ENGROSSED SENATE BILL No. 222

DIGEST OF SB 222 (Updated February 19, 2002 3:13 PM - DI 106)

Citations Affected: IC 35-46.

Synopsis: Fraudulent schemes relating to health care providers. Prohibits an owner or employee of certain health care providers from receiving money or assets as a loan or gift from an individual who receives care from the provider. Makes the penalty for committing the offense a Class A infraction. Permits an otherwise prohibited gift if it is made in writing before two disinterested witnesses. Permits a court to order the health care provider to return assets or repay the money with interest, or pay treble damages and reasonable attorney's fees.

Effective: July 1, 2002.

Miller, Howard

(HOUSE SPONSOR — STURTZ)

January 7, 2002, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

January 17, 2002, amended, reported favorably — Do Pass.

January 22, 2002, read second time, ordered engrossed.

January 23, 2002, engrossed.

January 24, 2002, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 5, 2002, read first time and referred to Committee on Judiciary.

February 14, 2002, amended, reported — Do Pass.

February 19, 2002, read second time, amended, ordered engrossed.

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ES 222—LS 6664/DI 106+



Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

ENGROSSED SENATE BILL No. 222

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-46-7 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2002]:

4 **Chapter 7. Offenses Against Persons Receiving Care**

5 **Sec. 1. As used in this chapter, "health care provider" means:**

- 6 (1) a hospital licensed under IC 16-21;
7 (2) a health facility licensed under IC 16-28;
8 (3) a housing services establishment that is required to file a
9 disclosure statement under IC 12-15;
10 (4) a continuing care retirement community that is required
11 to file a disclosure statement under IC 23-2-4;
12 (5) a home health agency licensed under IC 16-27;
13 (6) a hospice licensed under IC 16-25;
14 (7) an entity that provides licensed or certified health care
15 professionals to:
16 (A) a health care provider; or
17 (B) a person who is in need of, or receives, professional



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- 1 health care services;
- 2 (8) a community mental health center (as defined in
- 3 IC 12-7-2-38);
- 4 (9) a private psychiatric hospital licensed under IC 12-25;
- 5 (10) a state institution (as defined in IC 12-7-2-184); or
- 6 (11) a community residential facility for the developmentally
- 7 disabled that is licensed under IC 12-28-5.

8 **Sec. 2. This chapter does not apply to the following:**

- 9 (1) A gift or donation of money or other asset with a value not
- 10 exceeding five hundred dollars (\$500) in the aggregate per
- 11 year per person, given to:
- 12 (A) a health care provider in the corporate name of the
- 13 health care provider; or
- 14 (B) a health care provider that is organized under Section
- 15 501(c)(3) of the Internal Revenue Code.
- 16 (2) A gift or loan of money or other asset given by a person
- 17 who receives services from a health care provider to a
- 18 member of the person's family who:
- 19 (A) is employed by a health care provider; or
- 20 (B) owns, wholly or jointly, a health care provider.
- 21 (3) A bequest of personal property or devise of real property
- 22 made in an executable will as described in IC 29-1-5-5 to a
- 23 health care provider or an owner, employee, or agent of a
- 24 health care provider.
- 25 (4) The purchase of a security (as defined in IC 23-2-1-1) that
- 26 is traded on a national or regional exchange.
- 27 (5) A gift or gratuity, not exceeding five hundred dollars
- 28 (\$500) in the aggregate per year per person receiving services
- 29 from the health care provider, to an employee of a health care
- 30 provider.
- 31 (6) A gift or donation of money or other asset given to
- 32 purchase or otherwise acquire a product, service, or amenity
- 33 for the use, entertainment, or enjoyment of persons receiving
- 34 services from a health care provider.

35 **Sec. 3. (a) The following transactions are subject to the**

36 **requirements of subsection (b):**

- 37 (1) A gift, a donation, a loan, or an investment from a person
- 38 who receives services from a health care provider to:
- 39 (A) the health care provider; or
- 40 (B) an owner, employee, or agent of the health care
- 41 provider;
- 42 in the name of the owner, employee or agent.



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1 (2) A loan or an investment from a person who receives
2 services from a health care provider to the health care
3 provider in the corporate name of the health care provider.

4 (b) A transaction under subsection (a) must be executed by a
5 competent person in writing and witnessed by two (2) disinterested
6 parties. Each witness shall sign a document that describes the
7 transaction in the presence of:

8 (1) the person who makes the transaction; and

9 (2) the other witness.

10 (c) A health care provider, or an owner, an employee, or an
11 agent of a health care provider, who:

12 (1) receives a gift, a donation, a loan, or an investment from
13 a person who receives services from a health care provider;
14 and

15 (2) fails to comply with the requirements of subsection (b);
16 commits a Class A infraction. Without regard to the amount of the
17 transaction, the court that imposes the penalty for the infraction
18 violation may, upon the request of the prosecuting attorney, order
19 the person to return assets or repay money received in violation of
20 this section, plus interest from the date of the transaction, to the
21 person who made the gift, donation, loan, or investment. In
22 addition, the court may order the person to pay treble damages
23 and reasonable attorney's fees.

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SENATE MOTION

Mr. President: I move that Senator Howard be added as second author of Senate Bill 222.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 222, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 40, delete "health care provider,".

and when so amended that said bill do pass.

(Reference is to SB 222 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 222, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 9, after "asset" insert "**with a value not exceeding five hundred dollars (\$500) in the aggregate per year per person,**".

and when so amended that said bill do pass.

(Reference is to SB 222 as printed January 18, 2002.)

STURTZ, Chair

Committee Vote: yeas 10, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Senate Bill 222 be amended to read as follows:

Page 3, line 4, after "executed" insert "**by a competent person**".

(Reference is to ESB 222 as printed February 15, 2002.)

FOLEY

HOUSE MOTION

Mr. Speaker: I move that Senate Bill 222 be amended to read as follows:

Page 3, line 21, after "investment." insert "**In addition, the court may order the person to pay treble damages and reasonable attorney's fees.**".

(Reference is to ESB 222 as printed February 15, 2002.)

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